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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,199	09/18/2003	Ray Hough	965/167	8295

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EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,199

Applicant(s)

HOUGH, RAY

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>attached</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. During a telephone conversation with Mr. Jonathan Hines on December 20, 2004 a provisional election was made without traverse to prosecute the invention of a tamper evident life jacket container assembly, claims 10-19 (see the attached interview summary). Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-9, 20, and 21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

2. Claim 10 is objected to. Claim 10 recites "said open-ended container" in lines 5-6. This recitation lacks antecedent basis in the claims. The recitation should be "said container". Consistent terms should be used. Appropriate correction is required.
3. Claim 10 is objected to. Claim 10 recites "said open end of said container" in lines 7-8. This recitation lacks antecedent basis in the claims. The recitation should be "said opening". Consistent terms should be used. Appropriate correction is required.
4. Claim 19 is objected to. Claim 19 should depend from claim 18, not from claim 8. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (US 3,623,683) in view of Switlik (US 2003/0215162) and Alband (US 5,082,702). Bennett shows a life jacket container comprising a hollow container (27) with an open top end. Life vest (V) is disposed within the container. Cover (31) is attached to the container and encloses the opening. Bennett teaches that a pressure sensitive seal (32, 33, 34, 35) is provided around the opening of the container and hermetically seals the cover to the container. Bennett does not teach that the sealing material is tamper evident such that removal of the cover causes the seal to change in a manner to provide an observable indication that the cover has been removed. Switlik shows a life jacket container. Switlik teaches that daily inspection to confirm package integrity and to detect tampering are common for the purpose of maintaining security and safety (Paragraph 0003). Alband shows a tamper indicating tape. Alband shows in figure 6 that the tape can be used with a box-like container with a hinged lid (similar to that of Bennett). Alband teaches that the tape will provide a visual indication if the box cover has been opened. Based upon the teaching of Switlik and the disclosure of Alband, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bennett by adding the Alband tape to the cover and

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container of Bennett. The motivation would be to promote security and safety. Use of the tape as shown by Alband in figure 6 would result in a sealing material that is secured at least partially around the opening of the container.

7. Regarding claim 11, Bennett discloses that the container (27) is molded plastic.

Bennett show an outwardly extending lip about the perimeter of the opening (figs 4, 5).

8. Claim 12, Bennet shows an arcuate mounting flange (28, 29) extending form the lip.

9. Claim 13, the cover (31) is generally planar (figs 4, 5).

10. Claim 14, a handle is integrally formed with the cover.

11. Claim 15, the cover is molded plastic and planar.

12. Claim 16, the cover includes a handle.

13. Claim 17, the cover has a vertical edge disposed about it perimeter. The vertical edge is upstanding.

14. Claim 18, the tape of Alband comprises two layers. Each layer is attached to both the container and cover. Removal of the cover from the container causes the tape to separate internally, causing the layers to separate form each other. At least a portion of each layer will remain connected to both the cover and the lid (see Alband, columns 4 and 5).

15. Claim 19, the separation of the layer of the Alband tape causes indicia to be visible on at least one of the layers.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brochman (US 3,923,198) shows a tamper indicating seal that can be used around the opening of an open-ended container and cover (fig 4). Helms (US 6,523,713) shows a container and cover. A tamper-evident seal is disposed over the opening of the container. Helms teaches that the container could be used to hold hardware, which could be a flotation device. Hughes et al. (US 2004/0239435) shows a tamper-evident life jacket container that uses an electronic tamper-detection system.

17. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

AW 1/10/05
ANDREW D. WRIGHT
PRIMARY EXAMINER